

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
No. 2:08-CT-00021-H**

KEITH MATHIS, <u>et al.</u> ,)	
)	
<u>Plaintiffs,</u>)	CONSENT MOTION TO SET A
)	SUPPLEMENTAL BRIEFING
v.)	SCHEDULE ON PLAINTIFFS'
)	MOTION FOR CLASS
GEO GROUP INC., <u>et al.</u> ,)	CERTIFICATION
)	
<u>Defendants.</u>)	

With the consent of opposing counsel, Plaintiffs respectfully move for an order setting a supplemental briefing schedule on Plaintiffs' motion for class certification in order to permit the parties to conform the pending motion to the current pleadings.

In support of this motion Plaintiffs state as follows:

1. Plaintiffs received notification from the Court on April 15, 2009 that several motions, including Plaintiffs' Motion for Class Certification [DE 31], had been submitted to the staff counsel assigned to the above referenced case.

2. The class certification motion was filed in the District Court for the District of Columbia in September 2007. Since that time, the case has been transferred to this Court (and thus become subject to controlling authority of the Fourth Circuit), and the Plaintiffs have filed a superseding First Amended Complaint.

3. The class certification briefing that was filed 19 months ago in federal district court in the District of Columbia no longer reflects the case as it stands today.

4. First, in October 2008, Plaintiffs filed a superseding First Amended Complaint. Unlike the original Complaint filed 22 months ago, the superseding Complaint no

longer seeks monetary relief. The first amended Complaint also names class representatives who are different, and fewer in number, than those named as plaintiffs in the original Complaint. These changes are material to the Court's review of Plaintiffs' motion for class certification under Fed. R. Civ. P. 23, because the Court must determine the adequacy of the current named plaintiffs to represent the class allegations and the appropriateness of the proposed relief for a class-wide determination.

5. Second, because the pending motion was filed in the District of Columbia (which has adopted a local rule requiring that class certification motions be filed within 90 days of the filing of a class action complaint, LCvR 23.1(b)), the motion papers of both Plaintiffs and Defendants relied heavily on District of Columbia case law. Supplemental briefing would permit the parties to provide the Court with relevant precedent from the Fourth Circuit, as well as other relevant precedent that may have been issued since the class certification motion was filed in 2007.

6. Currently pending before the Court are Defendants' motions to dismiss, which have been fully briefed and submitted. Because the Court's decision on the pending motions to dismiss may narrow the claims or issues in the case, Plaintiffs respectfully suggest that supplemental briefing on Plaintiffs' class certification motion be keyed off of the Court's decision on the Defendants' motions to dismiss. Plaintiffs suggest the following supplemental briefing schedule on the class certification motion:

Plaintiffs' Supplemental Brief in Support of Class Certification	40 days following the decision on the pending motions to dismiss
Defendants' Response	40 days following the submission of Plaintiffs' Supplemental Brief
Plaintiffs' Reply	20 days following the submission of Defendants' Responses

Counsel for the Federal Defendants, Kathy Wyer, and counsel for defendant GEO Group, Inc., Robert Numbers, have advised that they will not oppose the motion.

WHEREFORE, Plaintiffs respectfully request that their motion to set a supplemental briefing schedule on the pending motion for class certification be granted.

Dated: April 24, 2009

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this 24th day of April, 2009, filed the foregoing using CM/ECF, which will serve all required parties by sending a Notice of Electronic Filing to all counsel of record.

/s/ Neil A. Riemann

Neil A. Riemann